

Message Text

CONFIDENTIAL

PAGE 01 BERLIN 00224 01 OF 05 120701Z
ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-07
L-03 NSAE-00 PA-01 PRS-01 SP-02 SS-15 NSCE-00
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INFO AMEMBASSY BONN
AMEMBASSY LONDON
AMEMBASSY PARIS
USMISSION USBERLIN
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C O N F I D E N T I A L SECTION 01 OF 05 BERLIN 00224

E.O. 11652: GDS
TAGS: PFOR, CGEN, GE, US
SUBJECT: AMBASSADOR-GDR DEP FONMIN MEETING ON
CONSULAR CONVENTION

REF: A) STATE 005396; B) 77 BERLIN 9003; C) 77 BERLIN
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SUMMARY: DURING MY JAN 10 MEETING WITH DEPUTY FORNMIN
MOLDT ON AN EXCHANGE OF STATEMENTS FOR A US/GDR CONSULAR
CONVENTION, MOLDT STATED THAT THE REFERENCE TO "GERMAN
NATIONALITY" IN OUR DRAFT WAS UNACCEPTABLE TO THE
GDR. HE SAID IN EFFECT THAT THE SENTENCE CONTAINING
THESE TWO WORDS WOULD HAVE TO BE ELIMINATED SINCE IT
AMOUNTS TO WHAT IS IN ARTICLE 116 OF THE FRG CONSTITUTION,
OR COULD SO BE INTERPRETED BY THIRD STATES, I.E.
THE FRG. WHILE MOLDT SAID THE GDR COULD LIVE WITH THE
REST OF THE U.S. DRAFT STATEMENT, HE INDICATED THEY
WOULD PREFER A MUCH SHORTER VERSION. HE CLAIMED HIS
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BERLIN 00224 01 OF 05 120701Z

INSTRUCTIONS WERE TO NEGOTIATE AN EXCHANGE OF STATEMENTS
IN WHICH EACH SIDE WOULD STATE ITS OWN POSITION ON ITS
OWN NATIONALITY.

I NOTED OUR APPROACH WAS TO FIND A SOLUTION WITHOUT
DOING DAMAGE TO EITHER SIDE. THAT WAS THE INTENT OF
OUR DRAFT STATEMENT, IT EXPRESSED THE U.S. POSITION ON

NATIONALITY IN A STRAIGHTFORWARD, NON-POLEMICAL MANNER. I EXPRESSED THE PERSONAL VIEW THAT IT WOULD BE NECESSARY TO HAVE A STATEMENT ON THE U.S. POSITION ON GERMAN NATIONALITY. I URGED THE GDR TO RESPOND TO OUR STATEMENT ON THE SUBJECT IN A NON-POLEMICAL WAY. I DREW MOLDT'S ATTENTION TO THE FACT THAT ANY CONVENTION WOULD HAVE TO BE RATIFIED BY THE U.S. CONGRESS. THEREFORE, U.S. POSITIONS OF PRINCIPLE ON OPEN GERMAN QUESTIONS WOULD HAVE TO BE REFLECTED IN WHATEVER DOCUMENTS TO WHICH BOTH SIDES AGREE. THIS CABLE ALSO CONTAINS SEVERAL OPTIONS FOR CONSIDERATION AS NEXT STEPS IN THE INFORMAL DISCUSSIONS. END SUMMARY.

1. I MET FOR ALMOST 3 HOURS JAN. 10 WITH GDR DEPUTY FOREIGN MINISTER MOLDT TO CONTINUE THE INFORMAL DISCUSSION OF THE DRAFT TEXTS OF AN EXCHANGE OF LETTERS FOR THE CONSULAR CONVENTION. AUGUST KLOBES, CHIEF OF THE FOREIGN MINISTRY'S CONSULAR SECTION, THE DCM, AND A GDR TRANSLATOR WERE ALSO PRESENT.

2. AFTER A BRIEF DISCUSSION OF MOLDT'S TRIP TO THE FAR EAST, MOLDT OPENED THE DISCUSSION ON THE CONSULAR CONVENTION BY REFERRING TO MY DEC. 8 DISCUSSION WITH DEPUTY FOREIGN MINISTER GRUNERT AND THE U.S. DRAFT STATEMENT I HAD GIVEN HIM (REF B). IN MOLDT'S VIEW, THE U.S. DRAFT SHOWED HOW THE UNITED STATES SEES THE

CONFIDENTIAL

PAGE 03 BERLIN 00224 01 OF 05 120701Z

RESOLUTION OF QUESTIONS RELATED TO THE CONCLUSION OF A CONSULAR CONVENTION. HE WISHED TO SAY THE GDR IS READY IN A CONSTRUCTIVE SPIRIT TO DEVELOP RELATIONS WITH THE UNITED STATES. IN THIS CONNECTION, MOLDT RECALLED MY INITIAL TALK WITH HONECKER, IN WHICH THE SAME VIEWPOINT HAD BEEN EXPRESSED. THE VANCE-FISCHER MEETING WAS TAKEN AS AN INDICATION OF THE ENDEAVOR OF BOTH SIDES TO ADVANCE RELATIONS. MY MEETING WITH POLITBURO MEMBER LAMBERT (BERLIN 00L8) WAS SEEN IN THIS LIGHT ALSO; MOLDT ADDED THAT THE AIDE MEMOIRE THEY HAD GIVEN US IN MAY, 1977 WAS AN EXPRESSION OF GDR READINESS TO SEEK WAYS TO DEVELOP RELATIONS WITH THE U.S. IN THE INTERESTS OF BOTH SIDES.

3. MOLDT WENT ON TO SAY THE GDR WAS LOOKING FOR A SOLUTION TO THE QUESTION, OF DECISIVE IMPORTANCE TO IT, THROUGH AN EXCHANGE OF LETTERS OUTSIDE THE CONSULAR CONVENTION. IT WAS CONVINCED THAT A SOLUTION TO THE ISSUE COULD BE FOUND BETWEEN THE TWO SIDES. HOWEVER, MOLDT STRESSED, SUCH A COMPROMISE, I.E. THAT A DEFINITION OF NATIONALITY NOT BE INCLUDED IN A CONSULAR CONVENTION, WOULD NOT BE POSSIBLE FOR

CONSULAR CONVENTIONS THE GDR IS CURRENTLY NEGOTIATING WITH THIRD STATES. THE GDR WELCOMED U.S. EXPRESSIONS OF READINESS TO RESOLVE THE PROBLEM IN A MANNER WHICH DOES NOT INJURE EITHER SIDE, AND THE GDR HAS SOUGHT TO ANALYZE IN THIS SPIRIT THE U.S. DRAFT STATEMENT I HAD PRESENTED GRUNERT AT THE OCT. 25 MEETING.

4. ACCORDING TO MOLDT, THE GDR HAS REACHED THE FOLLOWING CONCLUSIONS FROM ITS ANALYSIS OF THE U.S. DRAFT STATEMENT: A) IT OUTLINED CONDITIONS UNDER WHICH A PERSON ACQUIRES OR LOSES NATIONALITY. THE

CONFIDENTIAL

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CONFIDENTIAL

PAGE 01 BERLIN 00224 02 OF 05 120716Z
ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-07
L-03 NSAE-00 PA-01 PRS-01 SP-02 SS-15 NSCE-00
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INFO AMEMBASSY BONN
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AMEMBASSY PARIS
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CONFIDENTIAL SECTION 02 OF 05 BERLIN 00224

GDR AGREE, AND THERE IS NO QUESTION ABOUT THIS PORTION OF THE DRAFT; B) SIMILARLY, THE GDR DOES NOT QUESTION THAT EVERY STATE HAS THE RIGHT TO MAKE SOVEREIGN DECISIONS ON THE QUESTION OF ITS NATIONALITY; AND C) NEITHER DOES THE GDR QUESTION THAT A DEFINITION OF NATIONALITY SHOULD NOT BE BINDING ON THIRD STATES. AT THE SAME TIME, THE GDR BELIEVES IT WOULD BE WORTH CONSIDERING WHETHER IT IS NECESSARY TO INCLUDE STATEMENTS OF SUCH A NATURE IN AN EXCHANGE OF LETTERS. IF THIS IS NECESSARY, THEN THE GDR DRAFT STATEMENT WOULD HAVE TO BE WORDED IN A SIMILAR FASHION. HOWEVER, THE GDR IS OF THE OPINION THAT SUCH STATEMENTS ARE NOT NECESSARY IN AN EXCHANGE OF LETTERS BECAUSE THEY ARE TAKEN CARE OF BY INTERNATIONAL LAW AND ARE

SELF-EVIDENT.

5. MOLDT WENT ON TO SAY THAT WHAT MATTERS TO THE GDR IS TO DEFINE CLEARLY THE "CIRCLE OF PERSONS" FOR WHOM ANY CONSULAR POST MAY BE RESPONSIBLE. IT

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BERLIN 00224 02 OF 05 120716Z

WAS IN THIS SPIRIT THAT THE GDR PRESENTED ITS COMPROMISE PROPOSAL OF OCT. 25 THAT EACH SIDE SHOULD PRESENT IN AN EXCHANGE OF STATEMENTS ITS OWN POSITION ON ITS OWN NATIONALITY. THE GDR DOES NOT BELIEVE THE PROBLEM LIES IN WHETHER THERE IS A DEFINITION OF NATIONALITY OR A DESCRIPTION OF EACH STATE'S POSITION ON NATIONALITY.

6. THE PROBLEM, AS FAR AS THE GDR IS CONCERNED, IS THAT THE U.S. DRAFT STATEMENT DOES NOT CONFINE ITSELF TO A PRESENTATION OF THE U.S. POSITION ON U.S. NATIONALITY, BUT SPEAKS OF "GERMAN NATIONALITY". THIS IS THE POINT WHICH IS NOT ACCEPTABLE TO THE GDR AND WHICH MUST BE DISCUSSED FURTHER. THE U.S. DRAFT REFLECTS A POSITION TAKEN BY A THIRD STATE AND, MOLDT WENT ON, THEREFORE DOES NOT REPRESENT AN ACCEPTABLE COMPROMISE. IN THIS REGARD, MOLDT WISHED TO RECALL WHAT POLITBURO MEMBER LAMBERT HAD SAID TO ME, I.E. WE SHOULD BE GUIDED IN DEVELOPING RELATIONS BY THE INTERESTS OF THE TWO STATES INVOLVED.

7. MOLDT WENT ON TO SAY THAT THE SENTENCE IN THE U.S. DRAFT STATEMENT WHICH IS NOT ACCEPTABLE TO THE GDR IS THE ONE WHICH READS: "IN THIS REGARD, THE UNITED STATES GOVERNMENT WISHES TO STATE THAT IT MAINTAINS ITS POSITION REGARDING GERMAN NATIONALITY." THE PROBLEM, MOLDT CONTINUED, COULD BE OVERCOME IF BOTH SIDES ARE READY TO CONFINE THEMSELVES TO THEIR OWN RESPECTIVE NATIONALITY; THIS IS HOW THE GDR SEES THE WAY OUT OF THE CURRENT IMPASSE. HE THEN ASKED THAT THE U.S. SIDE RECONSIDER WHAT IT HAS SAID REGARDING NATIONALITY SO THAT BOTH SIDES COULD ARRIVE AT A SOLUTION. THIS, MOLDT SAID, WAS THE CRUX OF THE MATTER. HE THEN QUESTIONED WHETHER THE U.S. SIDE

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BERLIN 00224 02 OF 05 120716Z

FELT IT WAS NECESSARY TO INCLUDE THE 3 CRITERIA MENTIONED ABOVE, ASKING THAT WE GIVE FURTHER THOUGHT TO THIS SINCE THE GDR DOES NOT CONSIDER IT NECESSARY TO INCLUDE THEM IN AN EXCHANGE OF LETTERS.

8. I THANKED MOLDT FOR HIS PRESENTATION AND REITERATED OUR READINESS TO DO WHAT WE CAN TO DEVELOP BILATERAL COOPERATION WITH THE GDR IN THE SPIRIT OF THE VANCE-FISCHER MEETING AND OF THE CONVERSATIONS I HAD HAD WITH MR. HONECKER AND OTHER GDR OFFICIALS. WE ALSO LOOKED ON THE GDR AIDE MEMOIRE OF LAST MAY AS A GDR EFFORT IN THE SAME SPIRIT. IT WAS MY HOPE THAT WE COULD RESOLVE THE ISSUES IN THE CONSULAR CONVENTION, WHICH ARE IMPORTANT, AND WHICH CAN MAKE A CONTRIBUTION TO THE DEVELOPMENT OF BILATERAL RELATIONS. IT WAS ALSO MY HOPE THAT WE COULD PUT THIS MATTER BEHIND US EARLY IN THE CURRENT YEAR. I APPRECIATED THE FLEXIBLE, CONSTRUCTIVE APPROACH THE GDR HAS TAKEN UNTIL NOW DURING THESE INFORMAL DISCUSSIONS. OUR APPROACH WAS DESIGNED TO FIND A SOLUTION THAT WOULD NOT DO DAMAGE TO EITHER SIDE. THIS IS WHAT WE HAD SOUGHT TO DO IN THE U.S. DRAFT STATEMENT. IT IS A STATEMENT EXPLAINING THE U.S. POSITION ON NATIONALITY. I WAS PLEASED, THEREFORE, THAT THE GDR FOUND THE THIRD PARAGRAPH OF THE U.S. DRAFT ACCEPTABLE AND I WOULD TAKE NOTE OF DEPUTY FOREIGN MINISTER MOLDT'S COMMENTS CONCERNING THE DEFINITION OF NATIONALITY AS IT AFFECTS THIRD COUNTRIES. I ALSO INDICATED I WOULD REPORT HIS COMMENTS ON THE ESSENCE OF THE PROBLEM TO WASHINGTON FOR ITS CONSIDERATION.

9. I SAID IT WAS MY PERSONAL VIEW THAT IT WOULD BE NECESSARY TO HAVE A STATEMENT ON THE U.S. POSITION

CONFIDENTIAL

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CONFIDENTIAL

PAGE 01 BERLIN 00224 03 OF 05 111817Z
ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-07
L-03 NSAE-00 PA-01 PRS-01 SP-02 SS-15 NSCE-00
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AMEMBASSY LONDON
AMEMBASSY PARIS
USMISSION USBERLIN

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CONFIDENTIAL SECTION 03 OF 05 BERLIN 00224

ON GERMAN NATIONALITY SINCE IT EXPLAINED OUR POSITION ON THIS ISSUE. THE DRAFT WE HAD PRESENTED THEM WAS DIRECT AND STRAIGHT FORWARD IN THIS REGARD, AND NOT POLEMICAL. I WAS CONFIDENT THAT WASHINGTON WOULD BE WILLING TO CONSIDER A RESPONSE FROM THE GDR ON THE MATTER OF NATIONALITY THAT WAS EQUALLY AS CLEAR AND NON-POLEMICAL AS THE ONE WE HAD GIVEN THEM. IT WAS MY FURTHER VIEW, SPEAKING INFORMALLY AND UNOFFICIALLY, THAT THE GDR COULD RESPOND TO THAT POINT IN A MANNER THAT GDR INTERESTS WERE PROTECTED AND WITHOUT BEING POLEMICAL. IN MY VIEW, THE BEST AND FASTEST WAY TO DO SO WOULD BE FOR THE GDR TO ADD WHAT IT THOUGHT WAS NECESSARY TO ITS OWN DRAFT STATEMENT RATHER THAN TO TRY TO MODIFY THE U.S. DRAFT. WE WOULD BE READY TO CONSIDER A GDR STATEMENT THAT WAS EQUALLY CLEAR.

10. I NOTED THAT WE HAD STATED EARLIER THAT THE QUESTION OF A DEFINITION OF CITIZENSHIP WAS A MATTER FOR CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BERLIN 00224 03 OF 05 111817Z

EACH STATE TO DECIDE ITSELF. WHATEVER THE GDR WISHES TO ADD BEYOND THAT TO ITS STATEMENT WAS OF COURSE UP TO THE GDR SIDE. I EXPRESSED THE HOPE THE GDR WOULD RECONSIDER THE MATTER WITH THE AIM OF FINDING A SOLUTION AND EXPRESSED OUR READINESS TO CONTINUE THE INFORMAL DISCUSSIONS FOR THE PURPOSE OF MOVING MATTERS FORWARD.

11. IN REPLY, MOLDT SAID THE GDR HAD GIVEN THOUGHT TO PRESENTING US WITH A NEW DRAFT AT TODAY'S MEETING, BUT HAD COME TO THE CONCLUSION IT WOULD NOT BE USEFUL TO DO SO. IN MOLDT'S VIEW, THE GDR ASSUMED THAT EITHER STATEMENT SHOULD BE ACCEPTABLE TO BOTH SIDES. HE AGREED THAT THEY SHOULD NOT BE POLEMICAL. AT THE SAME TIME, THE CONTENT OF THE STATEMENTS SHOULD BE SUCH THAT THIRD STATES COULD NOT USE THEM FOR POLEMICAL PURPOSES, OR GIVE THIRD PARTIES THE OPPORTUNITY TO INTERPRET THEM IN A MANNER THAT DOES HARM TO BOTH STATES.

12. QUITE FRANKLY, MOLDT CONTINUED, THE SENTENCE IN THE U.S. DRAFT ON GERMAN NATIONALITY WOULD LEND ITSELF TO INTERPRETATION BY THIRD STATES. THE SENTENCE AMOUNTS TO WHAT IS CONTAINED IN ARTICLE 116 OF THE FRG CONSTITUTION, OR AT LEAST IT COULD BE SO INTERPRETED,

AND THAT IS THE PROBLEM FOR THE GDR. WHILE THE GDR UNDERSTANDS THAT WHAT THE U.S. DRAFT STATEMENT PRESENTS IS ITS POSITION ON NATIONALITY, IT IS THE GDR'S VIEW THAT BOTH SIDES SHOULD TRY TO FIND COMPROMISE LANGUAGE ACCEPTABLE TO BOTH SIDES. THE MAIN GDR CRITERION FOR THIS IS THAT THE TEXTS MUST NOT BE SUBJECT TO MIS-INTERPRETATION BY THIRD STATES. A THIRD PARTY COULD ESTABLISH A LINK BETWEEN THE PHRASE "GERMAN NATIONALITY"

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BERLIN 00224 03 OF 05 111817Z

AND ITS COMPETENCE TO CARE FOR PERSONS WITHIN THE LIMITS OF THE 1937 BORDERS OF GERMANY. THEREFORE, IN THE GDR VIEW, THE WAY OUT OF THE DILEMMA IS FOR EACH SIDE TO SET FORTH ITS POSITION ON ITS OWN NATIONALITY. HE THEN NOTED THE GDR KNOWS THE U.S. LOOKS AT THIS ISSUE FROM A DIFFERENT ANGLE.

13. I INTERRUPTED TO SAY THAT WAS WHY WE HAD INDICATED WE WERE PREPARED TO ACCEPT A GDR STATEMENT THAT PROTECTS GDR INTERESTS. MOLDT REPLIED THAT, WERE THEY TO DO SO ON THE QUESTION OF NATIONALITY, IT WOULD CREATE DIFFICULTIES WHICH WOULD NOT BE ACCEPTABLE TO THE U.S. GOVERNMENT INASMUCH AS THE GDR WOULD HAVE TO OUTLINE ITS POSITION IN CONNECTION WITH ARTICLE 116 OF THE FRG CONSTITUTION. I SAID I WOULD REPORT MOLDT'S COMMENTS TO WASHINGTON AND WOULD BE IN TOUCH WITH HIM AT AN APPROPRIATE TIME.

14. THERE THEN FOLLOWED A LENGTHY DISCUSSION IN WHICH MOLDT SAID HE WAS SPEAKING TOTALLY UNOFFICIALLY AND PERSONALLY AND ASKED THAT NO NOTES BE TAKEN. HE SAID HIS INSTRUCTIONS WERE TO NEGOTIATE AN EXCHANGE OF STATEMENTS IN WHICH EACH SIDE SET FORTH ITS OWN POSITION ON ITS OWN NATIONALITY. IN LOOKING AT THE U.S. DRAFT, THE GDR WAS BOthered MAINLY BY TWO POINTS. THE FIRST, AND MOST IMPORTANT, WAS THE U.S. STATEMENT THAT IT MAINTAINS ITS POSITION ON GERMAN NATIONALITY. THIS WAS TACKLING THE ISSUE HEAD-ON. IF ANY COMPROMISE WERE POSSIBLE ON THIS PARTICULAR QUESTION, IT WOULD BE POSSIBLE ONLY IF THERE WERE A LESS DIRECT REFERENCE TO THE ISSUE. IN THIS CONNECTION, MOLDT ASSERTED THAT IT MIGHT BE TOLERABLE TO THE GDR IF THE SENTENCE (I.E., THE LAST SENTENCE OF PARA 4) COULD BE DROPPED, BUT THAT THE FOLLOWING SENTENCES BE RETAINED. THIS APPROACH WOULD INDICATE, AT LEAST

CONFIDENTIAL

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CONFIDENTIAL

PAGE 01 BERLIN 00224 04 OF 05 111837Z
ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-07
L-03 NSAE-00 PA-01 PRS-01 SP-02 SS-15 NSCE-00
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AMEMBASSY LONDON
AMEMBASSY PARIS
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USMISSION USNATO

CONFIDENTIAL SECTION 04 OF 05 BERLIN 00224

INDIRECTLY, THAT THE U.S. AND THE GDR HAD DIFFERENT
POSITIONS ON THE QUESTION OF NATIONALITY.

15. THE SECOND POINT WAS THE STATEMENT IN THE U.S. DRAFT
THAT THE QUESTION OF A DEFINITION OF NATIONALITY AGREED
TO BY TWO STATES WOULD HAVE NO BINDING EFFECT ON THIRD
STATES. BY THIS, MOLDT SEEMED TO BE IMPLYING THEY WERE
CONCERNED THAT THIS WOULD GIVE THE FRG A FREE HAND IN THE
MATTER OF PRESSING ITS POSITION ON GERMAN NATIONALITY WITH
OTHER STATES WHICH WERE STILL NEGOTIATING CONSULAR CON-
VENTIONS WITH THE GDR. IN THIS GENERAL CONNECTION MOLDT
STRESSED THAT WHILE THEY WERE PREPARED TO MAKE CONCESSIONS
TO THE U.S. FOR THE PURPOSE OF CONCLUDING A CONSULAR
CONVENTION, THEY WERE CONCERNED ABOUT DOING SO IN A MANNER
THAT WOULD NOT SET A PRECEDENT FOR NEGOTIATIONS STILL
UNDERWAY WITH OTHER STATES AND WHICH MIGHT DAMAGE GDR
"GAINS" MADE SO FAR IN THIS AREA. SUBSEQUENTLY, MOLDT
INDICATED THERE COULD BE DIFFERENT INTERPRETATIONS OF THE
MEANING OF THIS SENTENCE, AND SAID THEY WOULD BE PREPARED
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BERLIN 00224 04 OF 05 111837Z

TO ACCEPT "MISINTERPRETATION" BY THIRD STATES IF THE
SENTENCE ON GERMAN NATIONALITY WERE DROPPED.

16. IN RESPONSE TO MOLDT'S COMMENTS, I NOTED THE PROBLEM
WAS NOT ONE OF OUR MAKING, BUT THAT IT HAD BEEN RAISED BY
THE GDR'S INSISTENCE ON A STATEMENT ON NATIONALITY. WE
WOULD PREFER A CONSULAR CONVENTION WITHOUT A REFERENCE TO

NATIONALITY AND WITHOUT AN EXCHANGE OF STATEMENTS ON THE SUBJECT. I ALSO NOTED THAT WHAT IS INVOLVED IN THE QUESTION IS AN IMPORTANT, UNRESOLVED POST-WAR ISSUE. IT IS THEREFORE A MATTER OF PRINCIPLE TO BOTH SIDES AND IT WOULD BE DIFFICULT TO DUCK THE ISSUE. I SAID IN THIS CONNECTION THAT ANY CONSULAR CONVENTION WOULD HAVE TO BE RATIFIED BY CONGRESS AND THAT WE WOULD HAVE TO TAKE THIS INTO ACCOUNT IN THE CONTENT OF ANY EXCHANGE OF LETTERS WHICH WE MIGHT AGREE TO ON THE SUBJECT OF NATIONALITY. MOLDT TOOK THIS POINT, BUT AT THE SAME TIME ASKED THAT HIS VIEWS BE CONVEYED TO WASHINGTON FOR ITS CONSIDERATION. I REITERATED I WOULD DO SO.

17. COMMENT: IT IS EVIDENT FROM MOLDT'S REMARKS, AND AS I HAVE SUSPECTED, THAT THE GDR IS NOT PREPARED AT LEAST AT THIS STAGE IN THE INFORMAL TALKS TO RESPOND TO ANY U.S. LANGUAGE THAT DIRECTLY REFERS TO GERMAN NATIONALITY. WHILE THIS MAY IN PART BE A NEGOTIATING POSITION, I THINK IT ALSO IS A REFLECTION OF MORE BASIC GDR POLICY AND CONCERNS. HAVING ASSERTED PUBLICLY THAT THERE IS NO LONGER A GERMAN NATIONALITY, BUT ONLY FRG OR GDR CITIZENSHIP, THEY WOULD FIND IT VIRTUALLY IMPOSSIBLE TO RESPOND TO A STATEMENT FROM US (WITH THE PRECEDENT IT COULD SET FOR OTHERS) THAT WE HAVE A DIFFERENT VIEW ON GERMAN NATIONALITY. TO DO SO, FROM THE GDR'S STANDPOINT, WOULD BE TO CALL INTO QUESTION THE CONCEPT OF GDR SOVEREIGNTY, THAT IT HAS CITIZENS AND

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BERLIN 00224 04 OF 05 111837Z

RECOGNIZED BORDERS. IN THIS CONNECTION, MOLDT ASSERTED DURING THE DISCUSSION THAT OUR DRAFT STATEMENT REPRESENTED A "RETROGRESSION" FROM THE AGREED MINUTE ON ESTABLISHMENT OF RELATIONS, WHICH DOES REFER TO "SENDING STATE CITIZENS"; BY IMPLICATION HE WAS SAYING THAT WE WERE NOW QUESTIONING THE EXISTENCE OF THE GDR AS A SOVEREIGN STATE. IN LIGHT OF THE RECENT SPIEGEL ARTICLES ON AN ORGANIZED OPPOSITION MOVEMENT IN THE SED, IT MAY MAKE THE LEADERSHIP EVEN MORE SENSITIVE TO THE QUESTION OF ITS LEGITIMACY, PARTICULARLY SINCE THE LEADERSHIP COULD FEEL THAT ELEMENTS IN THE FRG WOULD USE ANY REFERENCE TO "GERMAN NATIONALITY" FOR ANTI-GDR PURPOSES. APART FROM THE GDR'S OWN SENSITIVITIES ON THE SUBJECT, IT SEEMS UNLIKELY THE SOVIETS WOULD PERMIT THE EAST GERMANS TO RESPOND TO LANGUAGE THAT REFERS TO GERMAN NATIONALITY.

18. THEREFORE, IT SEEMS TO ME ON THE BASIS OF THE DISCUSSION WITH MOLDT THAT WE MAY WISH TO CONSIDER THE FOLLOWING MAIN OPTIONS IN DECIDING WHAT SHOULD CONSTITUTE OUR NEXT STEPS IN SEEKING TO RESOLVE THE CONSULAR CONVENTION ISSUE:

A. REAFFIRM TO THE GDR THAT THE CONTINUATION OF GERMAN NATIONALITY IS ONE ELEMENT OF THE UNRESOLVED GERMAN QUESTION. THEREFORE, WE MUST PRESERVE OUR POSITION ON THIS ISSUE TO PROTECT U.S. INTERESTS, AND URGE THE GDR TO MAKE AN EQUALY CLEAR AND NON-POLEMICAL RESPONSE TO OUR STATEMENTS TO PRESERVE ITS POSITION.

B. ATTEMPT TO PERSUADE THE GDR TO SIGN A CONVENTION WITHOUT SEPARATE STATEMENTS ON NATIONALITY IN ORDER TO AVOID POLITICIZING A PURELY TECHNICAL CONVENTION.

CONFIDENTIAL

NNN

CONFIDENTIAL

PAGE 01 BERLIN 00224 05 OF 05 111750Z
ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-07
L-03 NSAE-00 PA-01 PRS-01 SP-02 SS-15 IO-13 CA-01
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AMEMBASSY PARIS
USMISSION USBERLIN
USMISSION USNATO

CONFIDENTIAL SECTION 05 OF 05 BERLIN 00224

C. ACCEPT GDR STATEMENT REGARDING ITS OWN NATIONALITY AND ISSUE OUR PRESENT STATEMENT ORALLY FOLLOWING SIGNING OF THE CONSULAR CONVENTION. THIS WOULD ESSENTIALLY INVOLVE A CHANGE IN FORM AND PROCEDURE RATHER THAN SUBSTANCE.

D. CONSIDER ACCEPTING SEPARATE STATEMENTS THAT CONFINE THEMSELVES TO EXPLAINING THE RESPECTIVE POSITIONS ON U.S. AND GDR NATIONALITY. THIS WOULD MEAN DROPPING THE REFERENCE TO THIRD COUNTRIES IN OUR PRESENT DRAFT AND ACCEPTING THE SHORT VERSION OF THE GDR STATEMENT (REF C).

E. MODIFY PARAS 4 AND 5 OF OUR PRESENT DRAFT ALONG FOLLOWING LINES: "FURTHER, A DEFINITION OF NATIONALITY AGREED BY TWO STATES WOULD HAVE NO BINDING EFFECT ON THIRD STATES.

IN THIS RESPECT THE UNITED STATES MAINTAINS ITS POSITION
REGARDING DISPUTES BETWEEN THE GDR AND ANY THIRD COUNTRY
ON THE ISSUE OF NATIONALITY AND NOTES THAT THE CONSULAR
CONVENTION BETWEEN THE UNITED STATES AND THE GERMAN
DEMOCRATIC REPUBLIC CANNOT AFFECT SUCH NATIONALITY."

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BERLIN 00224 05 OF 05 111750Z

19. I THINK OPTION A WOULD BE THE MOST APPROPRIATE POSITION TO TAKE IN THE NEXT ROUND OF INFORMAL DISCUSSIONS SINCE IT WOULD PERMIT US TO RESTATE A PRINCIPLED POSITION AND TO TEST FURTHER IF THERE IS ANY FLEXIBILITY IN MOLDT'S "INSTRUCTIONS". THIS COULD BE COMBINED WITH MENTION OF OPTION B AS AN ALTERNATIVE, ALTHOUGH IT SEEMS UNLIKELY THAT THE GDR WILL GIVE ANY INDICATION OF SERIOUS INTEREST IN THIS APPROACH--SINCE IT WOULD NOT WISH TO SET A PRECEDENT IN THIS RESPECT. IN MY VIEW THE GDR WOULD GIVE SERIOUS THOUGHT TO OPTION C. OPTION D WOULD OBVIOUSLY BE THE EASIEST TO SELL TO THE GDR, ALTHOUGH WOULD NOT APPEAR TO MEET OUR INTERESTS IN TERMS OF OUR RELATIONS WITH BONN AND THEREFORE MAY NOT BE ACCEPTABLE. HOWEVER, IT SEEMS TO ME THAT THE LANGUAGE IN OPTION E COULD POSSIBLY MEET THE CONCERNS AND INTERESTS OF ALL PARTIES INVOLVED IN THAT IT ALLUDES TO DIFFERENCES ON THE NATIONALITY ISSUE WITHOUT BEING SPECIFIC ABOUT WHAT THE DIFFERENCES ARE AND STATES THAT THE U.S. MAINTAINS ITS POSITION REGARDING SUCH DISPUTES. AT SOME APPROPRIATE POINT IN THE INFORMAL DISCUSSIONS, IF IT APPEARS THAT THERE IS NO FLEXIBILITY IN THE GDR POSITION ON USE OF THE PHRASE "GERMAN NATIONALITY," WE MIGHT WISH TO CONSIDER THAT I FLOAT SUCH LANGUAGE ON A PURELY "PERSONAL, UNINSTRUCTED BASIS" TO TEST GDR REACTION.

20. I THINK IT IMPORTANT THAT WE TRY TO ACCELERATE THE TEMPO OF THE INFORMAL DISCUSSIONS WITH THE AIM OF TRYING TO FIND A MUTUALLY ACCEPTABLE SOLUTION AND THEREFORE WOULD APPRECIATE AN EARLY REPLY ON THE FOREGOING. IT WOULD BE HELPFUL IN THIS CONNECTION TO HAVE MORE DETAILED TALKING POINTS ON THE MATTER OF THE U.S. POSITION ON GERMAN NATIONALITY. BOLEN

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BERLIN 00224 05 OF 05 111750Z

CONFIDENTIAL

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Errors: N/A
Expiration:
Film Number: D780017-1022
Format: TEL
From: BERLIN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780178/aaaacnis.tel
Line Count: 598
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: a696eae4-c288-dd11-92da-001cc4696bcc
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 11
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 78 STATE 5396, 77 BERLIN 9003
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 24 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3795916
Secure: OPEN
Status: NATIVE
Subject: AMBASSADOR-GDR DEP FONMIN MEETING ON CONSULAR CONVENTION
TAGS: PFOR, CGEN, GC, US
To: STATE
Type: TE
vdkvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/a696eae4-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014